

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

**DARRELL REESE,**

**Petitioner,**

**v.**

**PENNSYLVANIA ATTORNEY  
GENERAL, et al.,**

**Respondents.**

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**CIVIL NO. 3:CV-07-0497**

**(Judge Caputo)**

**ORDER**

Petitioner, Darrell Reese, an inmate at the State Correctional Institution in Dallas, Pennsylvania, commenced this case by filing a Petition for Writ of Habeas Corpus (Doc. 1) pursuant to the provisions of 28 U.S.C. § 2254. Petitioner is challenging the validity of his trial on the offenses for which he is incarcerated.

By order dated April 24, 2007, Petitioner was advised, in accordance with *United States v. Miller*, 197 F.3d 644 (3d Cir. 1999) and *Mason v. Meyers*, 208 F.3d 414 (3d Cir. 2000), that (1) he can have his Habeas Petition document ruled on as filed, that is, as a § 2254 petition for writ of habeas corpus and heard as such, or (2) withdraw his petition and file one all-inclusive § 2254 petition within the one-year statutory period prescribed by the Antiterrorism and Effective Death Penalty Act. Petitioner was provided a Notice of Election form, and directed to notify the court within forty-five (45) days as to how he wished to proceed in this matter. (Doc. 5.) Petitioner was notified that if he chose to withdraw his petition and file one all-inclusive document, and he failed to file the new petition, the Court would withdraw the current petition and dismiss this action without prejudice.

On May 18, 2007, Petitioner filed the Notice of Election form wherein he notified the

Court that he wished to withdraw his instant Petition for Writ of Habeas Corpus, so that he may file one all-inclusive petition under 28 U.S.C. § 2254 within the one-year limit for filing such a petition. (Doc. 6.) The Notice of Election form was not accompanied by the new petition.

**ACCORDINGLY, THIS 22<sup>nd</sup> DAY OF MAY, 2007, IT IS HEREBY ORDERED THAT:**

1. The Petition for Writ of Habeas Corpus is **DISMISSED**, without prejudice to Petitioner timely filing an all-inclusive § 2254 petition within the time period prescribed by the Antiterrorism and Effective Death Penalty Act.
2. The Clerk of Court shall close this case.
3. There is no basis for a certificate of appealability.

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/s/ A. Richard Caputo

A. RICHARD CAPUTO  
United States District Judge